

-AO 241

**ORIGINAL**

07 - 469

Page 2 (Rev. 12/04)

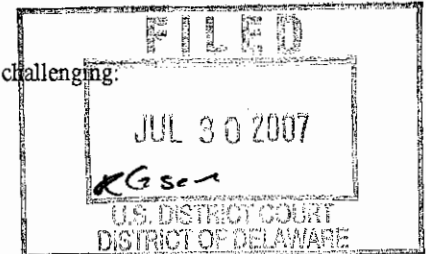
**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District: Delaware	
Name (under which you were convicted): <b>Henry W. Glanding Jr.</b>		Docket or Case No:	
Place of Confinement: <b>Delaware Department of Corrections Smyrna, Del. 19977</b>		Prisoner No.: <b>00132504</b>	
<i>Petitioner (include the name under which you were convicted) custody of petitioner)</i>  <b>Henry W. Glanding Jr.</b>		<i>Respondent (authorized person having custody of petitioner)</i>  <b>Thomas Carroll</b>	
The Attorney General of the State of Delaware is Beau Biden			

07 - 469

**PETITION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging:  
**Superior Court of Kent County Delaware**  
(b) Criminal docket or case number (if you know): **0105009486 A.4.B.**
2. (a) Date of the judgment of conviction (if you know): **March 4, 2002**  
(b) Date of sentencing: **April 23, 2002**
3. Length of sentence: **30 yrs. suspended after 15 yrs. Level 5**
4. In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No
5. Identify all crimes of which you were convicted and sentenced in this case:  
**15 counts of Poss. Firearm By Person Prohibited**
6. (a) What was your plea? (Check one)

☒ (1) Not guilty☐ (3) Nolo contendere (no contest)☐ (2) Guilty☐ (4) Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

X

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: Supreme Court of Delaware

(b) Docket or case number (if you know): # 236, 2002

(c) Result: Denied

(d) Date of result (if you know): May 13, 2002

(e) Citation to the case (if you know): X

(f) Grounds raised: Validity of Search Warrant

(g) Did you seek further review by a higher state court? ☐ Yes ☒ No

If yes, answer the following:

(1) Name of court: X

(2) Docket or case number (if you know): X

(3) Result: X

(4) Date of result (if you know): X

(5) Citation to the case (if you know): X

(6) Grounds raised: X

(h) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☒ No

If yes, answer the following:

(1) Docket or case number (if you know): X

(2) Result: X

(3) Date of result (if you know): X

(4) Citation to the case (if you know): X

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Superior Court of Kent County Delaware

(2) Docket or case number (if you know): 0105009486 A4B

(3) Date of filing (if you know): November 19, 2004

(4) Nature of the proceeding: Post-Conviction Relief Motion

(5) Grounds raised: Ineffective Assistance of Counsel for failing to challenge validity of search warrant/ Delaware did not prove the elements of Delaware Law under Title 11 Del. C. 1448

(b)

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: X

(8) Date of result (if you know): X

~AO 241  
(Rev.12/04)

Page 5

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: X

(2) Docket or case number (if you know): X

(3) Date of filing (if you know): X

(4) Nature of the proceeding: X

(5) Grounds raised: X

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: X

(8) Date of result (if you know): X

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: X

(2) Docket or case number (if you know): X

(3) Date of filing (if you know): X

(4) Nature of the proceeding: X

(5) Grounds raised: X

~AO 241  
Rev.12/04)

Page 6

(6) Did you receive a hearing where evidence was given on your petition,  
application, or motion?

☐ Yes ☒ No

(7) Result: x

(8) Date of result (if you know): x

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition,  
application,  
or motion?

(1) First petition: ☒ Yes ☐ No

(2) Second petition: ☐ Yes ☐ No

(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:  
x

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE: Ineffective Assistance of Counsel for failing to challenge validity of search warrant**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Counsel is ineffective for failing to challenge the validity of the search warrant/ No probable cause for search warrant under the four corners clause of the warrant application and affidavit / Confrontation clause was denied at trial but their conclusionary statements were used/ insufficient factual basis to credit the information used by informants/ search warrant was facially deficient and defective (no court seals)

(b) If you did not exhaust your state remedies on Ground One, explain why: x

~AO 241  
(Rev.12/04)

Page 7

(c) **Direct Appeal of Ground One:**

(1) if you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) if you did not raise this issue in your direct appeal, explain why: Cannot raise this issue on  
Direct Appeal

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) if your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-Conviction Relief Motion

Name and location of the court where the motion or petition was filed: Superior Court of Kent County  
Delaware

Docket or case number (if you know): 0105009486 A4B

Date of the court's decision: Nov. 30 2005

Result (attach a copy of the court's opinion or order, if available): Denied

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☒ Yes ☐ No

(5) If your answer to Question (d) (4) is "Yes," did you raise this issue in the appeal ☒ Yes ☐ No

(6) If your answer to Question (d) (4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court of Delaware

Docket or case number (if you know): N.O. 631, 2005

Date of the court's decision: May 16, 2006

Result (attach a copy of the court's opinion or order, if available): Denied

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: X

**GROUND TWO: Delaware did not prove the elements of Delaware Statue under Title 11 Del. C. 1448 (b) a firearm must be shown that it was used or attempted to be used to cause death or serious physical injury.**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): A firearm does not constitute a deadly weapon unless it is used or attempted to be used to cause death or serious physical injury

(b) If you did not exhaust your state remedies on Ground Two, explain why: X

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: X

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d) (1) is "Yes," state:

Type of motion or petition: Post-Conviction Relief Motion

Name and location of the court where the motion or petition was filed: Superior Court of kent County Delaware

Docket or case number (if you know): 0105009486 A4B

Date of the court's decision: Nov. 30 2005

(Rev 12/04)

Result (attach a copy of the court's opinion or order, if available): Denied

(3) Did you receive a hearing on your motion or petition?

☐ Yes☒ No

(4) Did you appeal from the denial of your motion or petition

☒ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes☐ No

(6) If your answer to Question (d) (4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court of Delaware

Docket or case number (if you know): No .631 , 2005

Date of the court's decision: May 16 , 2006

Result (attach a copy of the court's opinion or order, if available): Denied

(7) If your answer to Question (d) (4) or Question (d) (5) is "No," explain why you did not raise this issue: X

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: x

**GROUND THREE: Ambiguous Statute**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Delaware Statute Title 11 1448 (b) is an Ambiguous Statute. It is vague /void and was Unconstitutionally imposed in Petitioners case. The State of Delaware uses another Delaware Statute which was Title 11 Del. C. 222(5) this Statute was used instead of the Delaware Statute Title 11 Del. C. 1448 (b) Petitioner was indicted for Title 11 Del. C. 1448(b) not for title 11 Del. C. 222(5) therefore the Title 11 Del.C. 222(5) Statute cannot be used to get a conviction on Petitioner. Petitioner was not found guilty of Title 11 Del. C. 222(5). The Statute that Petitioner was indicted for is to be used to obtain an conviction.



(b) If you did not exhaust your state remedies on Ground Three, explain why? Petitioner requested his Counsel to argue this ground but Counsel failed to do so.

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: Petitioner requested his Counsel to argue this ground but Counsel failed to do so.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d) (1) is "Yes," state:

Type of motion or petition: X

Name and location of the court where the motion or petition was filed: X

Docket or case number (if you know): X

Date of the court's decision: X

Result (attach a copy of the court's opinion or order, if available): X

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d) (4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d) (4) is "Yes," state:

Name and location of the court where the appeal was filed: X

Docket or case number (if you know): X

Date of the court's decision: X

Result (attach a copy of the court's opinion or order, if available): X

(7) If your answer to Question (d) (4) or Question (d) (5) is "No," explain why you did not raise this issue: Petitioners Counsel failed to raise this ground even though Petitioner requested him to do so.

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used exhaust your state remedies on Ground Three: X

**GROUND FOUR: x**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): X

- (b) If you did not exhaust your state remedies on Ground Four, explain why: X

- (c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue

☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: X

- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state: x

Type of motion or petition: X

~AO 241  
(Rev.12/04)

Page 12

Name and location of the court where the motion or petition was filed: x

Docket or case number (if you know): x

Date of the court's decision: x

Result (attach a copy of the court's opinion or order, if available): x

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: x

Docket or case number (if you know): x

Date of the court's decision: x

Result (attach a copy of the court's opinion or order, if available): x

(7) If your answer to Question (d) (4) or Question (d) (5) is "No," explain why you did not raise this issue:

x

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: x

13. Please answer these additional questions about the petition you are filing:
- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☒ No
- If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: Ambigious Statute
- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, ground or grounds have not been presented, and state your reasons for not presenting them: Ambigious Statute Petitioners Counsel failed to raise this ground even though Petitioner requested him to do so.
14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No
- If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. x
15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No
- If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the raised.x

~AO 241  
(Rev. 12/04)

Page 14

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Lloyd A. Schimd/ Public Defender  
45 the Green Dover, Delaware 19901

(b) At arraignment and plea: Lloyd A. Schimd/ Public Defender  
45 The Green Dover, Delaware 19901

(c) At trial: Lloyd Schimd/ Public Defender  
45 The Green Dover, Delaware

(d) At sentencing: Lloyd Schimd/ Public Defender  
45 The Green Dover, Delaware 19901

(e) On appeal: Michael W. Modica 715 King Street  
Suite 300 P.O. Bx. 437 Wilm. Del. 19809

(f) In any post-conviction proceeding: Michael W. Modica 715 King St. Suite 300  
P.O. Box 437 Wilm. Del. 19809

(g) On appeal from any ruling against you in a post-conviction proceeding: Michael W. Modica 715 King St.  
Suite 300 P.O. Box 437 Wilm. Del. 19809

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

x

(b) Give the date the other sentence was imposed: x

(c) Give the length of the other sentence: x

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future?

☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

Before this Motion 28U.S.C. 2244(d) can be filed the Petitioner has to exhaust all State remedies.

Therefore Petitioner has been filing Motions and Appeals to exhaust all his State remedies which has taken more than an year to do so So therefore In The Interest of Justice petitioner asks this Honorable Court not to bar this Motion due to the fact that Petitioner has seeking relief by exhausting his State remedies which has taken him much more than a year to do so.

IM Henry Gauding Jr  
SBI# 132504 UNIT West A-13-B  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977

UNITED STATES DISTRICT COURT For the

J. Caleb Boggs Building  
844 King Street  
Locker Box 18  
Wilm Del. 19801

